

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 98-602

July 29, 1999

PUBLIC UTILITIES COMMISSION  
Investigation of Stranded Costs Transmission  
and Distribution Utility Revenue Requirements  
and Rate Design of Matinicus Plantation  
Electric Company

ORDER

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WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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By way of this Order, we grant Matinicus Plantation Electric Company's (MPEC) request that it be exempted from the provisions of the state's Electric Restructuring Act, Chapter 32 of Title 35-A Maine Revised Statutes Annotated, but deny MPEC's request that it be given a blanket exemption from the other provisions of Title 35-A and our rules.

On August 10, 1998, pursuant to the requirements of 35-A M.R.S.A. § 3208(8), the Commission initiated an investigation to determine the stranded costs for each of the state's consumer-owned electric companies (COUs), including Matinicus Plantation Electric Company (MPEC).

On September 9, 1998, MPEC filed a Request for Exemption, pursuant to 35-A M.R.S.A. § 3504, which authorizes the Commission to exempt a consumer-owned electric utility of not more than 150 customers from any of the requirements of Title 35-A and any Commission rules with the exception of 35-A M.R.S.A. §§ 3502 and 3503. In its Request, MPEC notes:

The burden of complying with electric restructuring laws and rules is clearly beyond its capacity. Given the cost of distribution on the island, generation savings would be an almost insignificant factor in total delivered costs.

MPEC is a consumer-owned utility company, as defined by 35-A M.R.S.A. § 3501, located on the island of Matinicus, which is located 21 miles southeast of Rockland and 18 southeast of Owls Head. Given MPEC's size and remote island location, we agree with MPEC's assessment that it would be counter-productive to attempt to implement open retail access on Matinicus Island. Indeed, the Legislature recently enacted legislation to take effect on September 18, 1999, which would exempt an electric utility whose system is not physically connected to any transmission and distribution utility from the provisions of the state's Electric Industry Restructuring Act. P.L. 1999, ch. 395, § E-1. Therefore, MPEC's request for exemption from the provisions of Chapter 32, Electric Industry Restructuring of Title 35-A and all Commission rules promulgated to implement restructuring is granted. The investigation

of MPEC's stranded costs, transmission and distribution utility requirements and rate design is, therefore, dismissed.

In its request, MPEC also asked that it be exempted from all other provisions of Title 35-A, except sections 3502 and 3503, and all provisions of the Commission's rules. Many of the provisions go to the heart of the Commission's ability to regulate public utilities (e.g., 35-A M.R.S.A. § 112 - Power to Obtain Information; 35-A M.R.S.A. § 113 – Management Audit; and 35-A M.R.S.A. § 115 – Enforcement of State Laws). In other instances, it appears that the statute for which waiver is sought imposes little burden on MPEC (e.g., 35-A M.R.S.A. § 3102 – Recovery of Cost of Canceled Plant). While the Legislature has granted the Commission broad authority to exempt small, consumer-owned electric utilities from the provisions of Title 35-A, the Legislature has not, at this point, deregulated such entities. To the extent that MPEC believes that it should be totally deregulated, the appropriate forum for such action is the Maine Legislature. At this time, however, we do not believe granting the blanket exemption is warranted by the information presented. Therefore, the remainder of MPEC's request will be dismissed without prejudice.

While we will not grant MPEC's request for a blanket exemption at this time, we do believe that it would be constructive for representatives of each of the small consumer-owned electric utilities, the Public Advocate's Office and the Commission's Staff to meet and develop a list of statutory provisions and rules which small, consumer-owned electric utilities should not be required to follow. Given the extremely heavy workload currently placed on our Staff to implement electric restructuring by March 1, 2000, we believe that such an effort could begin in mid-2000. In the meanwhile, if MPEC believes that a provision of Title 35-A or our rules is particularly burdensome, we invite the utility to file a specific request for waiver prior to the commencement of this collaborative effort.

Accordingly, it is

#### **O R D E R E D**

1. that Matinicus Plantation Electric Company's request that it be exempted from the provisions of Title 35-A, Chapter 32 and the Commission's Rules promulgated to implement the provisions of Chapter 32 is granted;
2. that the Commission's investigation of stranded costs, transmission and distribution utility revenue requirements, and rate design in Docket No. 98-602 be closed; and
3. that the remainder of MPEC's request for exemption be dismissed without prejudice.

Dated at Augusta, Maine, this 29<sup>th</sup> day of July, 1999.

BY ORDER OF THE COMMISSION

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Raymond Robichaud  
Assistant Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.